

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE**

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<b>KATHLEEN ELAINE PETHTEL, Individually,</b>	)	
<b>&amp; TOBIAS MARK PETHTEL, Individually,</b>	)	
<b>et al.</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>No.: 3:10-CV-469</b>
	)	
<b>vs.</b>	)	
	)	
<b>STATE OF TENNESSEE DEPARTMENT</b>	)	
<b>OF CHILDREN’S SERVICES, et al.</b>	)	
	)	
<b>Defendants.</b>	)	

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**DEFENDANTS FOOTHILLS CARE, INC., LEIGH ANNE GOLDSTINE, AND STELLA  
HAMILTON’S MOTION TO SUSPEND SCHEDULING  
ORDER AND DISCOVERY**

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Come the Defendants, Foothills Care, Inc., Leigh Anne Goldstine, and Stella Hamilton, through counsel, pursuant to Local Rule 26.1, and submit the following Motion to Suspend the Scheduling Order entered July 11, 2011 (Dt. 138) and all discovery in this case pending the resolution of the criminal matter involving Plaintiffs Kathleen Pethtel, Tobias Pethtel, and the minor children whom the Plaintiffs purport to represent. As grounds for said Motion, Defendants state as follows:

1. The Plaintiffs’ Amended Complaint in this case was filed on March 3, 2011 (Dt. 6). The Complaint names forty-five (45) different defendants and is one hundred fourteen (114) pages long. The Complaint contains a myriad of allegations, some of which are allegedly based on “false reports of child abuse,” “creation and prosecution of false claims of child abuse,” “abuse of power,” and improper search and seizure. (Dt. 6 at pp. 19, 22, 24, 30). Since the filing

of said Amended Complaint, seven (7) different Motions to Dismiss have been filed on behalf of multiple defendants.

2. Upon information and belief, Plaintiff Tobias Pethtel is currently under indictment in Anderson County, Tennessee for aggravated child abuse in a case pending under Anderson County Criminal Court docket number B0C076A. Upon information and belief, Plaintiff Kathleen Pethtel is likewise under indictment in Anderson County, Tennessee for aggravated child abuse in a case pending under Anderson County Criminal Court docket number B0C0706B. Defendants aver, upon information and belief, that the indictments and the Plaintiffs' Amended Complaint stem from the same set of factual circumstances and involve some, if not all, of the minor children named in the Amended Complaint.

3. Defendants therefore aver that the Scheduling Order and all discovery in the pending civil case should be stayed pending the resolution of the Plaintiffs' criminal matter. First, depending on its disposition, the final judgment in the criminal trial may operate as collateral estoppel with regard to some or all of the Plaintiffs' litany of allegations against any number of defendants in the pending civil case. *See generally Nationwide Mut. Fire Ins. Co. v. Stanley*, 403 F.Supp.2d 638 (E.D. Tenn. 2005) (discussing the extent to which criminal judgments may operate to collaterally estop civil litigation). Second, in the event the parties in this case proceed with discovery, the Plaintiffs may be able to assert their Fifth Amendment right against self-incrimination with regard to the various defendants' discovery requests while at the same time enjoying unfettered access to discovery responses on behalf of the defendants. Finally, given the number of defendants and the breadth of the Plaintiffs' allegations, these Defendants also anticipate that discovery in this case will be a costly and time-consuming process.

WHEREFORE, in the interest of judicial economy, these Defendants respectfully move this Court for an Order suspending the Scheduling Order and all discovery until such time that a final judgment is entered in the Plaintiffs' pending criminal case.

Respectfully submitted this 20<sup>th</sup> day of July, 2011.

**LEITNER, WILLIAMS, DOOLEY  
& NAPOLITAN, PLLC**

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## **CERTIFICATE OF SERVICE**

I, DANA C. HOLLOWAY, do hereby certify on July 20, 2011, a copy of the foregoing document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U. S. Mail. Parties may access this filing through the Court's electronic filing system.

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